

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES ASHLEY,	§
	§ No. 210, 2011
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0807030656
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 16, 2011
Decided: May 19, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 19th day of May 2011, it appears to the Court that:

(1) On April 27, 2011, the Court received the appellant's notice of appeal from the Superior Court's order, dated and docketed on March 14, 2011, which denied his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the March 14, 2011 order should have been filed on or before April 13, 2011.

(2) On April 27, 2011, the Clerk issued a notice pursuant to Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his response on May 9, 2011. In the response, he states that he believes he sent the original notice of

appeal to the Court on March 21, 2011. Because it did not reach the Court, he surmises that the original and copy were both sent to the Office of the Attorney General. In its reply dated May 13, 2011, the Attorney General states that the appellant's explanation does not cure the jurisdictional defect. In its supplemental reply dated May 16, 2011, the Attorney General states that the prison mail logs reflect that the appellant had no outgoing mail in March 2011.

(3) Pursuant to Rule 6(a)(iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.² An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that this appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice